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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in the Islamic Republic of Iran, prepared by the Special Representative of the Commission on Human Rights, Mr. Maurice Copithorne (Canada), pursuant to Commission resolution 1995/68 of 8 March 1995 and Economic and Social Council decision 1995/279 of 25 July 1995

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I. INTRODUCTION

1. In March 1995, after nine years of service, Mr. Reynaldo Galindo Pohl (El Salvador) submitted his resignation as Special Representative. In August 1995, the Chairman of the Commission on Human Rights, Mr. Musa bin Hitam, appointed Mr. Maurice Copithorne (Canada) to replace Mr. Galindo Pohl. Mr. Copithorne submitted a brief report to the General Assembly at its fiftieth session in November 1995 (A/50/661) and undertook to submit his first substantive report to the Commission on Human Rights at its fifty-second session in the spring of 1996.

2. The Special Representative notes that the human rights situation in the Islamic Republic of Iran has been on the agenda of the Commission since 1982 and that the Commission first established the position of Special Representative in 1984. It is a subject that clearly continues to be of very great interest to many Governments, organizations and private individuals. This attention reflects a wide range of concerns, some of a personal nature, some of a political nature, many of a humanitarian nature. In the Special Representative's view, the politicized tone of much of the dialogue is so pervasive that human rights are in danger of becoming a vehicle rather than an end in themselves. The Special Representative's function as he sees it is to bring the status of human rights into clear focus and to provide some indication of areas where progress is being made and areas where further progress is needed in order to meet prevailing international standards, particularly as they apply to the Islamic Republic of Iran.

A. Position of human rights in the world today

3. Human rights in their most fundamental form are usually associated with respect for human dignity, a reflection of the inherent worth of every human being. There seems no gainsaying this basic fact. There also seems to be little dispute that the Charter of the United Nations and the Universal Declaration of Human Rights are the starting point for determining the norms, some general, some specific, that the world community as a whole has articulated. From the beginning, however, it was evident that a more precise articulation would be needed. The result of course was the long debate and the eventual emergence of the two Covenants, international agreements to which States were invited to commit themselves. Today some 131 States are parties to the Covenant on Civil and Political Rights and 133 States are parties to the Covenant on Economic, Social and Cultural Rights. Since the Covenants were drafted, many other human rights conventions have been prepared and many of these are in force. Those agreements to which the Islamic Republic of Iran is party are listed in annex I.

4. Taken together, these documents represent the international community's efforts to set in legislative form the norms and in some cases the procedures to be followed by States. The texture of this regime is rich and complex. It is in some parts vague enough to give rise to different interpretations. Taken as a whole, however, it is clearly an expression of the world community's commitment to the dignity of the individual.

5. Two further points should perhaps be made at this stage. First, there is a recognized role for the regions in the articulation of human rights norms and procedures; some have chosen to supplement the universal commitments of their member States by creating additional ones of a regional nature. It is widely believed that, in these regional regimes, the distinctive culture and values of the region can be meaningfully expressed.

6. The second point is to acknowledge that for some States at least the central issue appears to be can universal human rights exist at all in a culturally diverse world? Some of them argue that the culture of the member State must be the optic through which its international commitments are assessed. Others however say that the Universal Declaration represents a consensus on human dignity broader than any specific culture or tradition. And indeed the 1993 Vienna Declaration and Programme of Action declares in its paragraph 5, that "All human rights are universal, indivisible and interdependent and interrelated" (A/CONF.157/24, Part I). The Special Representative shares the view of those who believe that universal human rights do not impose a single cultural standard, but rather a single legal standard affording the minimum protection necessary for human dignity. In the words of a recent United Nations background note: "Traditional culture is not a substitute for human rights; it is a cultural context in which human rights must be established, integrated, promoted and protected. Human rights must be approached in a way that is meaningful and relevant in diverse cultural contexts" (DPI/1627/HR).

B. Special Representative's sources

7. In seeking to fulfil his mandate, the Special Representative has looked to many sources for information including:

(a) The Government of the Islamic Republic of Iran;

(b) Individuals both within and outside the Islamic Republic of Iran;

(c) The media, both within and outside the Islamic Republic of Iran;

(d) Private organizations;

(e) Registered non-governmental organizations;

(f) Other Governments;

(g) Parliamentary groups and individuals;

(h) Other United Nations reports.

8. Most information has come to the Special Representative's attention in written form through the mail or by facsimile. In addition, he received direct representations in New York and in Geneva. Most importantly, in February 1996 he spent six days in the Islamic Republic of Iran at the invitation of the Iranian Government.

9. With regard to specific allegations, the Special Representative shares the view of his predecessor that, while it is important to exercise caution in accepting unsubstantiated accounts of human rights violations, it would be wrong to exclude an allegation solely because it was presumed to be politically biased, lacking in detail indeed generally improbable.

10. Much of the information provided to the Special Representative concerns the 10-year period or so following the revolution. Many of the informants are private individuals, who allege that they or a family member were mistreated, even tortured, by one, two or, in some cases, three different Governments or political groups, before and after the revolution. In some cases such persons died while in detention. In most cases the complainants want the treatment made known and those responsible punished. The Special Representative took careful note of all such allegations and has no reason to doubt that much mistreatment occurred. Much of it is recorded in his predecessor's reports. However, the current Special Representative considers that his primary responsibility is to report on the situation since the final report of his predecessor, namely the period from January 1995 to February 1996.

C. Activities of the Special Representative

11. The Special Representative travelled to Geneva from 3 to 6 September 1995 in order to hold consultations with the Centre for Human Rights, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva, officials of the Office of the United Nations High Commissioner for Refugees (UNHCR) and officials of the International Committee of the Red Cross (ICRC) as well as to start to familiarize himself with the area covered by his mandate.

12. On 24 November 1995, the Special Representative introduced his interim report to the Third Committee of the General Assembly (A/50/661). During his stay in New York, he held interviews with the High Commissioner for Human Rights, the Permanent Representative of the Islamic Republic of Iran to the United Nations and representatives of some non-governmental organizations (NGOs) based or represented in North America, among them, Article 19 International Centre against Censorship, Human Rights Watch/Middle East and the Lawyers Committee for Human Rights. The Special Representative also received representations from the National Council of Resistance of Iran, the National Committee on Women for a Democratic Iran, the Association of Iranian Scholars and Journalists, as well as private individuals.

13. The Special Representative visited Geneva again from 15 to 19 January 1996 in order to consult with the Permanent Representative of the Islamic Republic of Iran, UNHCR, Amnesty International and the Office of the Baha'i International Community. The Special Representative also received representations from 24 witnesses: 5 presented by the National Council of Resistance of Iran; 16 members of a delegation of former members of the People's Mujahedin of Iran and 3 on an individual basis.

14. Of the witnesses interviewed, the following agreed to have their names published in the present report: Mohammad Tafiq Asadri, Nadereh Afshankharghani, Azar Babai, Ikbal Babain, Majid Farahami, Karim Haggi-Moni,

Hadi Shams Ha'eri, Hassan Hatami, Habib Khorami, Sayid Akbar Mehdyar, Abbas Nazem, Jamshid Tafriski and Nahid Zandaj.

15. On 18 January 1996, the Special Representative received a written invitation to visit the Islamic Republic of Iran. The visit took place from 10 to 16 February 1996; the official and the private programmes are reproduced in annexes II and III respectively. The Special Representative was not able to have interviews with the President or Vice-President of the Supreme Court of Justice, the Chairman or Vice-Chairman of the Council of Guardians and the Minister or Vice-Minister of the Interior. All the other high authorities and officials with whom the Special Representative sought meetings met with him.

16. After his visit, the Special Representative again visited Geneva from 16 to 21 February 1996 in order to draft the present report and hold consultations related to the fulfilment of his mandate.

D. Correspondence

17. During the period from 1 August 1995 to 9 February 1996, the Special Representative received 271 letters from individuals setting out various problems, some of them directly related to human rights violations. During his visit to the Islamic Republic of Iran, the Special Representative received 72 additional letters from individuals.

18. In addition, the Special Representative has received 65 letters from the following NGOs since 1 August 1995: Amnesty International, Anglican Communion, Association of Iranian Scholars and Professionals, Association to Defend Human Rights in Iran (from Montreal), About Iran, Baha'i International Community, Campaign for the Defence of Political Prisoners, Centre for the Defence of Democracy in Iran, Christian Solidarity International, Comitato Mohammad Hossein Naghdi contro il terrorismo di stato e per i diritti umani in Iran, Committee for the Defence of the Iranian People's Rights, Committee to Protect Journalists, Community of Iranian Students, Constitutionalist Movement of Iran, Council for the Defence of Religious Leaders, Council of Shia Muslims in the United States of America, Canada and Europe, Defenders of Islam in Iran, Democratic Party of Iranian Kurdistan, Foundation for Democracy in Iran, Inc., Dr. Homa Darabi Foundation, Human Rights Watch/Middle East, International Federation of Human Rights, International Federation of Iranian Refugees and Immigrants Council, International Pen - Writers in Prison Committee, Iranian Community Centre, Jubilee Campaign, Kurdish Democratic Party of Iran (Revolutionary Leadership), League for the Defence of Human Rights in Iran, International League for the Rights and Liberation of Peoples, National Committee of Women for Democratic Iran, National Council of Resistance of Iran, Organisation des droits de l'homme et des libertés fondamentales pour l'Iran, Organization for Defending Victims of Violence, Organization of Iranian People's Fedaian (Majority), Parliamentary Human Rights Group of the House of Commons and World Federation of Democratic Youth.

E. Underlying questions

19. In approaching his mandate, the Special Representative identified a number of general questions:

(a) Seventeen years after the Islamic Revolution and seven years after the cease-fire in the Iran-Iraq war, is it the rule of law or the rule of man that prevails in the Islamic Republic of Iran?

(b) Has the reported discrepancy between promulgated laws and declared norms and particularly the provisions of the Constitution on the one hand and their implementation on the other been eliminated or at least reduced?

(c) Is the widely held impression that dissent, even peaceful dissent, is frequently met with repression a valid one?

(d) Are there political prisoners in the Islamic Republic of Iran? More particularly, is there a clear distinction between imprisonment for conscience and imprisonment for criminal acts?

F. Preliminary comments on the Special Representative's visit to the Islamic Republic of Iran

20. As indicated above, a most significant component of the Special Representative's activities has been his visit to the Islamic Republic of Iran from 10 to 16 February 1996, the first visit of a Special Representative since 1991. It has thus been five years since the last opportunity to have extensive discussions with senior government officials and indeed significant figures in Iranian society outside the Government, as well as with current detainees.

21. The Special Representative's programme in the Islamic Republic of Iran placed substantial emphasis on discussions with senior government officials, ministers, vice-ministers and senior judges. The Special Representative recognizes that such contacts are not likely to provide a comprehensive picture of a society. Nevertheless, he believes that this was the appropriate starting point. A six-day visit to a society as rich and complex as that of the Islamic Republic of Iran can only be an introduction. He looks upon his visit in this light and hopes there will be an opportunity within the next 12 months for a longer visit in order to deepen his understanding, particularly by broadening his range of contacts and visiting places outside Tehran. In this regard, the Special Representative has identified some of the subject areas he would like to examine at that time (see annex IV).

22. As indicated above, during his February visit to the Islamic Republic of Iran, the Special Representative met with many senior officials. A dominant theme in the presentations to him was what was perceived to be the unfairness of the special procedures mechanism, particularly that of country rapporteurs. The unfairness was seen to lie in the failure to measure the practices of the Islamic Republic of Iran in relation to those of other States both in the world generally and in the region in particular.

23. There was also frequent reference to what was viewed as the politicization of the decision-making process in the Commission on Human Rights to the point, it was said, that it mattered more who a State's friends and allies were than the nature and seriousness of the alleged practices. In other words, double standards were widespread.

24. Another theme was the uniqueness of the Iranian revolution and the dominant role of religion in the Islamic Republic of Iran's system of governance. Frequent reference was made to the need to judge the Islamic Republic of Iran and by extension, other States, in the context of their own culture.

25. On one occasion, the argument was put that the special procedures mechanism was intended to respond to gross and systematic violations of human rights and that while there might well be "irregularities" in the case of the Islamic Republic of Iran, they were hardly of a gross and systematic nature.

26. The Special Representative did not believe it was his place to do other than take note of those views, which are of course not new. On occasion, however, he did suggest to his counterparts that, in his opinion, national and international efforts for recognition and enforcement of human rights were continuing around the world and he was unaware of any State that was not under some degree of criticism in this regard.

II. LEGAL SYSTEM

27. The legal, judicial and correctional services in any society usually offer a revealing look at the value placed upon human rights by the Government of the State concerned. The Special Representative attaches much importance to this dimension of his inquiries in the Islamic Republic of Iran.

A. Rights of an accused

28. One commonly accepted right is to be charged or released within a minimum period. This is viewed as an important constraint on a State's use of arbitrary detention. In the Islamic Republic of Iran, there continue to be reports of prolonged pretrial detention, indeed seven years in one high profile case now before the courts (see paras. 34 and 35 below).

29. The right to be represented by a lawyer of the accused's choice is also viewed as essential:

(a) In the pretrial phase in the Islamic Republic of Iran, the right to a lawyer seems quite vague (see para. 52 below);

(b) The Special Representative is informed that a 1992 Act of the Majlis set out the right to a lawyer at the trial phase. An accused may choose not to have one. However, all serious charges with the possibility of the death penalty require a lawyer, if not chosen by the accused then appointed by the Court. One person interviewed by the Special Representative said he had become aware of his court-appointed lawyer only at the end of his trial. Another person thought his court-appointed lawyer had done his best in difficult circumstances. The Special Representative was told there are death sentences that have been overturned by the Supreme Court on the grounds that the accused did not have a lawyer. Several senior officials, including Ayatollah Yazdi, denied the Special Representative's understanding based on a widely quoted statement by the Prosecutor General, Rabani-Amlashi, on 9 March 1982, that lawyers would be allowed to speak only to sentencing. However, there continue to be reports that, for example, Baha'is are in

practice frequently denied legal representation because Baha'i lawyers have been deregistered and most Muslim lawyers fear to accept a Baha'i client. Furthermore, based on information provided by Ayatollah Yazdi, it appears that in some of the specialized courts such as the clerical courts, the right to a lawyer of the accused's choice is sharply curtailed by being limited to a choice from a limited group of lawyers approved to practice before that court;

(c) Finally, there are questions about the significance of the role a lawyer can play inside the court room. It has been alleged that, in some courts, particularly the revolutionary courts, some judges take on the roles of prosecution and defence as well. Certainly in the revolutionary court case that the Special Representative observed for about 45 minutes, the judge played a much more active role and the lawyers a more passive role than in any trial the Special Representative has attended elsewhere. Indeed, the Special Representative was left with the impression that the judge was clearly not a neutral third party between the prosecution and the defence.

B. Court system

30. There appear to be many judicial and quasi-judicial tribunals in the Islamic Republic of Iran. The Special Representative was able to meet with the chief judge of the Tehran District Revolutionary Courts, the chief judge of the Tehran Justice Department (i.e. the General Courts for the Tehran District), the Minister of Justice and the Chief of the Administrative Tribunal. The President of the Supreme Court was unable to meet as scheduled.

31. Mr. Rahbar Poor, head of the Revolutionary Courts of the Tehran District, explained that those courts had been established originally to study cases of persons who had violated human rights under the previous regime. Their jurisdiction had later been extended to terrorist groups in order to protect the human rights of the people. In 1995, there had been a new law defining the jurisdiction as drugs, espionage, smuggling and economic terrorism. Mr. Rahbar Poor said the procedure followed in the Revolutionary Court was at present no different from that in the General Courts. There was a right to a lawyer and a right of appeal and any sentence over 10 years was automatically reviewed by the Supreme Court.

32. The Special Representative asked about the continuation of the Revolutionary Courts so long after the revolution and about the debate in the Majlis about making them permanent. He was told there had indeed been a debate and, in the end, provided that those courts should have the same legal process as the General Courts, their maintenance had been approved. The Special Representative questioned what was inherent in the offences in question that made them more appropriate for the Revolutionary Courts than the General Courts. The answer was that the competence of the Revolutionary Courts was really quite limited, that they were comparable to the military courts under the previous regime and that, with crime becoming more specialized, there existed a need for specialized tribunals such as those that existed for family and military matters. The Special Representative remains to be persuaded that the Revolutionary Courts are just one among many tribunals and that the processes are indeed in practice the same as those in the General Courts.

33. The Special Representative spent about 45 minutes attending a current trial, over which Mr. Rahbar Poor was presiding. This was the fourth session of the trial, which had been prominently covered in the Tehran press. The charges concerned embezzlement, bribery, smuggling and other activities presented as an intricate network of illegal activity linked to zionism. The purpose of the session appeared to be to give the defendants a chance to respond to the allegations. In the time the Special Representative was present, three of the defendants were heard as well as several of the lawyers and experts. There were lively exchanges between those defendants who spoke and the judge, apparently over the appropriateness of their respective lines of defence, which, among other things, included shifting blame among each other. In the course of this dialogue, the judge noted that there had already been private sessions and that there could be more. He stated that matters affecting "public morality" should not be brought up in open court.

34. On another occasion, the Special Representative had a two-hour discussion with Mr. Ali Razini, the Chief of the Tehran Justice Department, i.e. the General Courts for the Tehran District. Mr. Razini said his courts heard about 50,000 cases a month in 14 centres across Tehran District. His court had broad competence; the other tribunals were limited to exceptional competences. There had been a recent change in procedure that affected mainly the pretrial phase. The investigating judge function now came under the responsibility of the trial judge rather than the prosecutor's office. The purpose was to simplify the process and shorten the time. Previously, the pretrial phase had sometimes lasted up to 10 years and, in some cases, persons had been kept in detention for over a year before being released without charges being formulated. The Special Representative would note that the press has reported criticism of the recent changes.

35. In response to questions, Mr. Razini said it was true that in the early days there was no right of appeal. Today, there was no limit on appeals. "I know of no case of a murder conviction not being appealed." With regard to the right to a lawyer, Mr. Razini said, "It is a right of an accused, not only of a condemned man." The Special Representative questioned the concept of "economic sabotage or terrorism" as distinct from commercial crime. Mr. Razini said that intent was the key factor in determining which court would hear the case. He acknowledged that intent was difficult to establish with certainty, adding that the accused would get the benefit of the doubt and, in any event, he could appeal the matter of competence. He said that there were few cases of economic terrorism, perhaps only 10 at the present time. They typically involved crimes like counterfeiting or embezzlement where substantial amounts were involved and which took place in time of war or where enemies of the State were involved. The Special Representative believes further inquiry into this matter is warranted.

C. Selection and training of judges

36. The Special Representative also met with the Minister of Justice, Mr. Esmail Shushtari. He described a problem that had existed formerly: the interference by the executive and the legislature in the administration of justice. That had changed and there were now no instances of such interference.

37. The primary problem for the Ministry now was the recruitment and training of judges. There was a need to recruit 600 judges within two years, of whom 200 were to be women and 400 secular men. At the moment there were about 4,000 judges, about 800 of whom were clerics and 300 women.

38. He explained the training process in some detail. The qualifications were either a four-year university degree in law, or religious studies and jurisprudence, or nine years of training at a religious school. The entrance exam looked for a logical mind and manner of expression. The accepted candidates went through a one-year training programme with theoretical and practical stages. The failure rate was 2 to 3 per cent. Once appointed, judges worked their way up through eight steps. There was a promotion board chaired by the Chief of the Judiciary. Generally, one spent four years in the first step as a minimum and three years in each subsequent step. In some exceptional cases (less than 10 per cent), there was a direct appointment to a tribunal of an individual who had not gone through all the preceding stages. There was some continuing education for judges but, because of the shortage of judges, only about five could be released for that purpose each year. Judicial discipline was the responsibility of the Judges' Disciplinary Tribunal. The judges were themselves judges of a rank superior to that of the person charged.

39. The Special Representative notes that, in addition to the tribunal referred to in the preceding paragraph, a superior tribunal was established in 1991: the High Tribunal for Judicial Discipline. The head of the judiciary is reportedly able to recommend dismissal on the basis of "religious considerations". The Special Representative believes that further inquiry into this subject of judicial discipline is warranted in the context of judicial independence.

40. The Special Representative understands that some but not all clerical judges are university graduates in law. He notes that in the past persons with minimum experience and sometimes little formal education were reportedly appointed as judges. The Special Representative believes it important that judges be recruited solely on the basis of their professional experience and competence. With regard to female judges, the Special Representative noted critical comments in the press that in last year's competitive examination for 50 female judges, there was no published list of applicants to be interviewed but only the names of the 18 persons eventually chosen. The official concerned in the Ministry was quoted as saying that acceptance depended on obtaining the required mark in the examination.

D. Clerical courts

41. In his interview with Ayatollah Yazdi, the head of the Judiciary, the Special Representative sought information about the clerics court, a tribunal in the spotlight recently because of certain high-profile defendants there. Ayatollah Yazdi said there were only 15 or 16 cases before that court at any given time in the country as a whole. On the question of competence, he said that the clerical courts only heard charges relating to the discharge of clerical responsibilities but that there might in addition be "incidental" or non-clerical dimensions. As those cases often involved "the prestige" of the clergy, the court was not open to the media nor were the decisions made

public. The same conditions applied to the military courts. As to the right to have a lawyer, as reported above, he said the accused had the right to choose from a limited group of approved lawyers. The Special Representative's understanding is that this tribunal was established in 1987 and became active after 1989. In the only recent case brought to his attention, a cleric and member of the Majlis was reported by the press in February 1995 to have been sentenced to 30 lashes and a year in prison for taking bribes. The Special Representative would like to examine more closely the workings of this and other special tribunals.

E. Punishments

42. On the matter of the newly confirmed Ta'azirat punishments, which have drawn adverse comments outside the Islamic Republic of Iran, Ayatollah Yazdi said many conditions have to be met before these punishments can be carried out. For example, in his five or six years in office, he had known of only two or three proposals for amputation. Ayatollah Yazdi said he had authority to intervene and press the complainant to settle the matter (i.e. on the basis of blood money) and he frequently did so. The Special Representative reiterated to Ayatollah Yazdi the request he had put earlier for detailed statistics on a national basis for the carrying out of judgements involving amputations and stoning.

43. The Special Representative's predecessor commented more than once on the number of judicial executions and the fact that their use greatly exceeded the very restricted terms of the Covenant. On this visit, the Special Representative pressed in writing and orally for firm numbers on death sentences carried out for drug offences and for all other offences. On at least one occasion, he referred to a widely quoted story in the official Chinese news agency in November 1995 that a senior Iranian official had advised his Chinese hosts that, since 1989, some 4,000 persons had been executed for drug offences in the Islamic Republic of Iran.

44. The Special Representative is informed that, under Iranian legislation, specifically the law of Hodoud and Qesas and the Ta'azirat, sometimes described collectively as the Islamic Penal Code of the Islamic Republic of Iran, the death penalty may be applied for the following offences: spreading corruption on Earth (mofsed); assassination; armed robbery; kidnapping; rape; adultery or incest, sexual relations by force or coercion and by a non-Muslim man with a Muslim woman; sodomy; apostasy; drug-trafficking and the use of arms to create fear and intimidation among the people or depriving them of their freedom and security. In addition, the law of retributory punishment establishes that a premeditated murder involves retribution and that the heirs of the murdered person may put the murderer to death with due observance of the conditions established by law. Premeditated murder and mayhem or inflicting of injury to a limb are also punishable by retribution.

45. On 28 November 1995, the Majlis adopted a new law of Islamic punishments which establishes that the death penalty may be applied to the following additional crimes: attempts against the security of the State; outrage against Iranian high-ranking officials and insults against the memory of Imam Khomeini and against the Leader of the Islamic Republic.

46. According to information published in the Iranian and the international press, at least 50 persons were executed in the Islamic Republic of Iran during 1995. Fifteen executions took place in public. Thirty-eight persons were hanged and one person was stoned to death. Another person was executed after receiving 80 lashes. The cases reported in the Iranian and international press are reproduced in annex V.

47. The Special Representative requested the Government to provide official information on the number of executions that had been carried out since the beginning of the Iranian year 1373. The Human Rights Department of the Ministry of Foreign Affairs advised that, in Tehran Province, 30 persons had been executed on drug-trafficking charges since the beginning of the Iranian year 1374 (21 March 1995). In terms of the Gregorian calendar, 35 persons were executed during 1995 in Tehran Province on charges of drug-trafficking.

48. During his meeting with the head of the Courts of Justice of Tehran Province, Judge Razini, the Special Representative was informed that death sentences must be reviewed by the Supreme Court. In trials relating to serious offences potentially involving the death penalty, the presence of a defence lawyer is compulsory. According to Ayatollah Yazdi, several conditions must be fulfilled to condemn a person to death. In cases of retribution, the relatives of the victim may require financial compensation or equal punishment. In many cases, the head of the Judiciary has intervened with the relatives to press them not to ask for equal punishment. In addition, Ayatollah Yazdi said, in an Islamic law system, all the sentences should be proportional to the charges and the judges should consider in each case three elements: the personal element (age, level of education, health, other personal particularities), the crime itself and the intention or reason for which the crime was committed.

49. The head of the Islamic Revolutionary Courts of Tehran, Judge Rahbar Poor, stated that the application of the death penalty should be examined in the context of the number of serious crimes being committed. The Islamic Republic of Iran is a major transit country for drugs from Afghanistan and Pakistan to Turkey and Europe. Although the situation was much better than 10 years ago, 120,000 tons of drugs were captured during the past Iranian year. The 30 to 35 persons executed over the same period were not simply local drug-traffickers, but members of armed international gangs engaged in international trade that constituted authentic mafias.

50. The Special Representative believes that further inquiry into the subject of the death penalty is warranted in the context of the Covenant provisions on this subject.

F. Independent Bar Association

51. The Special Representative met with the President of the Independent Bar Association, Mr. Eftekhar Jahromi, and three deputy heads of the Association. Mr. Jahromi reported the Bar Association now has offices in Tehran, Tabriz and Shiraz. There are 2,310 registered lawyers in the area centred on Tehran, 288 in the area centred on Tabriz and 216 in the area centred on Shiraz. Of the total, 234 are women. The Association runs training courses, issues permits to practice and considers complaints against lawyers. There are

currently 619 trainees in the three regions undergoing a year's training course. The Association does not get involved in the work of lawyers, who are free to accept or to turn down a case. Mr. Jahromi said that the Board of Directors of the Association would be elected every two years. After some delay, the first election for the position of President was to be held in the current year. Ayatollah Yazdi subsequently confirmed that elections would go ahead as scheduled.

52. The Special Representative then turned to the role of lawyers, especially at the pretrial stage. Mr. Jahromi said a new law less than a year old is ambiguous on this point. "You cannot say at what stage a lawyer can intervene." With regard to a case of a seven-year pretrial detention, he said that should not happen, that it would also be a violation of normal judicial process. It would also be a violation of both legal and religious decrees and that the system "cannot detain a person for a long time on the basis of suspicion alone".

53. As to the Association's major challenge, Mr. Jahromi said it was to increase the respect of the judiciary for lawyers. The Association would intervene with the judiciary as appropriate cases came along.

54. The Special Representative believes that further inquiry is warranted to determine whether the Independent Bar Association is playing a significant role in establishing and maintaining the integrity of the legal system in the Islamic Republic of Iran.

G. Atmosphere of the law

55. It would seem that a number of new laws have been enacted or old ones revised in recent years that affect the nature of the legal process in the Islamic Republic Iran. It also seems that some relevant provisions of the Constitution are perhaps now being actively implemented. On the other hand, there continue to be press references to senior personages engaging in public incitement to take extrajudicial action for example against "corruption", such as that attributed to Ayatollah Janati at a Tehran University prayers sermon in August 1995. And there seem to be groups, most notably the hezbollah, who are prepared to respond to such incitement.

56. The Special Representative nevertheless believes he detected an atmosphere for change. One of his Iranian interlocutors preferred the term maturation. He noted that norms were now being more clearly articulated and suggested that that was because of a clear need for a more uniform application of the law. The sense of arbitrariness that the Special Representative felt he detected was not a reflection of a concern over the security situation but of the strongly held view that Islamic theory required a highly independent judiciary.

57. In the Special Representative's opinion it is too soon to say that a fully defined legal system, with a truly independent judiciary, true respect for the rights of individuals, particularly at the pretrial phase, and other hallmarks of a credible legal system are in place.

III. STATUS OF WOMEN

58. The position of women in the Islamic Republic of Iran received much international press attention in the context of the Beijing women's conference in September 1995. The dialogue there continued the discussion that has been going on for some years about the status of women in Muslim countries and, in particular, in the Islamic Republic of Iran. It is a multifaceted dialogue heavily infused with politics and, at least on the part of the Muslim countries, accusations of unfair international press coverage.

59. At one level, the dialogue is about secularism and religion with the argument being roughly that the West is paying a heavy price for moving insistently down the road towards absolute secularism, particularly in the deterioration of the social fabric of Western societies. This is not an error that the Muslim societies want to repeat and they therefore insist on maintaining certain traditional values associated with women and with the family generally. At a second level, the dialogue is about whether the status of women in developing countries is a product of traditional culture and religion, or whether it is the result of poverty and illiteracy generally in these societies. At a third level, the debate is about the quite different status of culture or custom-based norms on the one hand and religion-based norms on the other. It is argued that, while the latter are incontrovertible, the former can and are being changed. At a fourth level, the debate is about two different concepts: equality versus equity. Some Muslim women, in this case Iranian women, deny attempts to "similarize" women with men in all dimensions, in other words to create "identicality" of rights and obligations between men and women. They argue that the Islamic system reflects, or at least is intended to reflect, the fact that men and women are equal in creation and in human value, and that they should be regarded as two beings at the same level of understanding and cognition. Consequently, they bear a comparable weight of responsibilities and enjoy comparable benefits although in different spheres of life.

60. The debate in all its complexity, and no doubt with a considerable measure of misunderstanding, will go on for some time to come. For this reason the Special Representative would simply take note of the results of the 1995 Beijing Conference in the form of the Platform for Action that was adopted unanimously (A/CONF.177/20).

61. However, the Special Representative believes it important to note that there seem to be some areas where an improvement of the status of women in the Islamic Republic of Iran is actively being discussed, if not necessarily at the level of government policy. One of these concerns the restrictions on the social activities of women and on their travel. One women's group in the Islamic Republic of Iran has said openly that such provisions imply that women cannot accept social obligations and responsibilities. The same group acknowledges that there exist some widespread interpretations in the Islamic world that tend to extend the limits, for example of a wife's obligation to obey her husband, to the point of absolute compliance. In a third area, that of temporary marriage, the same group has noted the gender-biased social and religious misinterpretations that exist. It would seem then that change might well come to pass in these areas without being viewed as infringements on religious precepts.

62. On the other hand, there are a number of areas in which religion rather than custom or culture are said to prevail, such as the Islamic covering or dress for women and inheritance. However, the Special Representative has been told that even in the former there could be room for accommodation based on the fact that there were traditionally in the Islamic Republic of Iran many types of Islamic covering or dress, which varied according to the custom of the particular region, and that, as between types, there should not be an argument based on religion. Another interlocutor, a prominent woman, said that there were those who put women under pressure in that regard but that, while she herself wore the chador, in her view women should be left free to choose the type of covering or dress they wanted.

63. The Special Representative inquired about Iranian nationality law, and in particular about the fact that foreign women, on marrying an Iranian national, reportedly automatically acquire Iranian citizenship, but that the same does not apply when a foreign man marries an Iranian woman. One of the Special Representative's interlocutors, a woman holding a senior if non-governmental position, expressed surprise saying that in her view Muslim women were indeed free to choose or reject a nationality. Another interlocutor, also in a non-governmental position, suggested that the problem of change in those areas, such as the requirement for a husband to sign his wife's passport application, reflected a need to educate members of the Majlis and other political elites on such inequities. This seems to be borne out by reports that, several years ago, the Majlis turned down a proposal to allow unmarried female students to go abroad for further studies.

64. The Special Representative believes that the status of women in the Islamic Republic of Iran is indeed not equal to that of men in very many ways. Nevertheless, according to his interlocutors, in some areas at least, significant progress could be made without touching upon Islamic precepts. However, leadership for such change will have to come from political elites and progress in this direction should be monitored.

IV. THE FATWA AGAINST SALMAN RUSHDIE

65. The Special Representative notes the widespread condemnation of the fatwa issued in 1989 against the British writer Salman Rushdie. He also notes that over the past year there have been contradictory signals on this subject from various authorities in the Islamic Republic of Iran. In this context, he doubts the meaningfulness of statements to the effect that, although the fatwa remains in effect, no order has been given to carry it out.

66. During his visit, the Special Representative raised the matter of the fatwa with the Minister for Foreign Affairs, Mr. Ali Akbar Velayati. The Special Representative was told that negotiations on an exchange of letters between the Islamic Republic of Iran and the European Union had made much progress and that the Iranian side wanted to conclude this exchange as soon as possible. Separate inquiries by the Special Representative during his visit to Tehran suggested there were still matters of substance separating the two sides.

67. The Special Representative wishes to record his own condemnation of the threat upon the life of Mr. Rushdie; he shares the view of those who judge the fatwa and the offered reward as an incitement to murder. He does not accept the argument that, if Mr. Rushdie is acknowledged to have a right of free speech in these circumstances, then so too do those who condemn him to death.

V. SITUATION OF THE BAHA'IS

68. The Special Representative has read the report of the Special Rapporteur on the question of religious intolerance on his recent visit to the Islamic Republic of Iran (E/CN.4/1996/95/Add.2) and wishes to associate himself with the conclusions and recommendations contained therein concerning the non-recognized minorities and the Baha'is in particular.

69. The only additional argument put to the Special Representative by his Iranian official interlocutors was that the Baha'is in the Islamic Republic of Iran were attempting to achieve de facto status as a recognized minority by such actions, it was implied, as completing the religion section on various government forms, including passport applications. It was suggested that to respond to such a question with the name of an unrecognized religion was attempting to obtain constitutional recognition for that religion. The Special Representative does not accept this reasoning.

70. During his visit to Evin prison in Tehran, the Special Representative requested private meetings with Mr. Kayvan Khalajabadi and Mr. Bihnam Mithaqi, two members of the Baha'i community who were arrested in April 1989 and sentenced to death on 8 December 1993 by the Islamic Revolutionary Court of Tehran. The Special Representative was granted access to these persons and spent 30 minutes with each in private. They each said the conditions in Evin prison had improved somewhat recently. Both sentences were being appealed to the Supreme Court. Decisions had been pending since February 1994 (see paras. 97 and 98 below).

71. The Special Representative also requested information from the Iranian authorities on the situation of Mr. Dhabihu'llah Mahrami, son of Ghumalrida, a Baha'i born in the Iranian year of 1325, sentenced to death on 2 January 1996 on charges of apostasy by Branch No. 1 of the Revolutionary Court of Yazd. On 19 February 1996, the Human Rights Department of the Ministry of Foreign Affairs informed the Special Representative that the Supreme Court of Justice had not confirmed the death sentence, had rejected the verdict and had referred the case to a competent court in Yazd for reconsideration. The Supreme Court cited the Revolutionary Court's lack of competence to hear this case.

72. The Special Representative notes that Baha'is apparently continue to face discrimination in the Iranian court system. In one case brought to his attention dated 14 September 1995 in Yazd, an application by a widower and children for succession rights to a deceased's property was refused on the grounds that the deceased as well as the husband and children were Baha'is. The property was confiscated for the benefit of a government-related trust. In another case of May 1995, a court in Shahr-i-Ray was faced with an application by the next-of-kin of a person killed and a second person injured in a motor-cycle accident. On the basis of the confessions of the accused and

other evidence, the crime of manslaughter and the crime of unpremeditated injury were found to be proven against the defendants, but the request for "blood money" was denied on the grounds that the deceased as well as the injured and the next-of-kin were Baha'is. One defendant was sentenced to pay 400,000 rials and a second to pay 100,000 rials to a government fund.

73. With regard to discrimination in employment, a letter was brought to the Special Representative's attention dated 11 January 1995 from the University of Medical Sciences and Health-Care Services in the province of Khuzistan, denying reinstatement to a Baha'i who had been earlier dismissed from his position as a nurse's aide, unless he renounced the Baha'i religion in a "widely distributed newspaper".

74. On 12 February 1996, the Special Representative discussed with three members of the Baha'i community in Tehran issues of continuing concern such as confiscation of properties belonging to Baha'is in the city of Yazd, obtaining passports to make visits outside the Islamic Republic of Iran, payment of pensions to retired Baha'is, access to higher education and the right to inheritance. Particular concern was expressed with regard to the right of the Baha'i community to maintain its administrative institutions.

75. Overall, while there appears to be some improvement in the lot of the Baha'is in the Islamic Republic of Iran, there continue to be grave breaches of human rights, which in the Special Representative's view are only likely to disappear with a significant change of attitude on the part of the Iranian authorities.

VI. FREEDOM OF THE MEDIA

76. As the Special Rapporteur for Freedom of Expression has very recently visited the Islamic Republic of Iran and is submitting a report to the Commission at its fifty-second session (E/CN.4/1996/39/Add.2), the Special Representative has chosen to place his emphasis on other sectors. However, very recently, two court cases involving press freedom came to the fore and were the subject of a number of representations to the Special Representative before his arrival in the Islamic Republic of Iran.

77. These involve two periodicals, Gardoon in Tehran and Tous in Mashhad. Although the publications are reportedly somewhat different, the issue presented was essentially the same: the trial, sentencing and punishment of the publishers/editors over the content of articles appearing in the journal. This process can be, and in those cases was, initiated by a complaint by members of the public. A hearing and conviction by jury followed. The final stage, the sentencing by the judge, might include a period of incarceration, a lashing and a suspension of the publication. The Special Representative was told that such convictions and the subsequent sentences are subject to appeal. Both publications have suspended publication. In the case of Tous, there has been a conviction but, as of the date of the Special Representative's visit, no sentencing. In the case of Gardoon, there has been a conviction and the publisher/editor has been sentenced to 35 lashes and 6 months in jail. The charges were publication of lies, contempt and "propagation of wicked deeds".

78. During his call on Vice-Minister Ashari of the Ministry of Islamic Guidance and Culture, the Special Representative inquired about the case of the publisher/editor of Gardoon, Mr. Abbas Maroufi. Earlier in the conversation Mr. Ashari had said that "we regard it as our function to protect the rights of the press. Today there is a great freedom of the press in the Islamic Republic of Iran but if a person feels insulted he can bring the publisher/editor before a jury in the Press Tribunal. This jury is the personification of the culture of the society".

79. Mr. Ashari said that in the case of Gardoon there had been many complaints and that the jury had found it responsible for the published material. Mr. Ashari was a member of the jury. He said that he did not agree with the sentence and showed the Special Representative a newspaper article quoting him as saying that the sentence was not right and that "it is below the dignity of the press".

80. The Special Representative subsequently met with Mr. Maroufi. Gardoon has been published for about six years. It is an 80-page literary journal appearing every 2 months with a circulation claimed to be about 20,000. The audience consists mainly of intellectuals. It receives no assistance from the Government and, in particular, no allocation of subsidized printing paper. However, it faces no direct censorship.

81. Gardoon has had run-ins with the authorities before. In 1992 a cover illustration of the August edition was criticized as being offensive and in October the magazine was banned by order of the Revolutionary Court. Mr. Maroufi was charged with a variety of offences, of which he was subsequently found not guilty in a one-day trial in December the same year. Two years later, Gardoon carried an article in which the sentence appeared, "the task of intellectuals is not only to oppose ... but also to promote critical thought". A group of people, including other journalists, complained. Mr. Maroufi was questioned but the matter quietened down. Recently there had been new complaints by 11 persons representing themselves, falsely in Mr. Maroufi's view, as the people of the Islamic Republic of Iran.

82. Mr. Maroufi complained about the jury process, both its composition (including judges and senior officials such as Vice-Minister Ashari) and the fact that in his case its membership had changed three times since his latest troubles had begun.

83. Mr. Maroufi pointed out that the Constitution allows for criticism. He always has his articles reviewed by two lawyers before publication. He believes he has done nothing wrong but is the victim of the current "mood" (javv). Nine of his own books have been held up in the Ministry awaiting approval for publication.

84. Mr. Maroufi said he had been in the publishing/editing business for 20 years. "All my existence has been put into the creation of a literary journal ... My objective is to encourage writers of this country".

85. The Special Representative understands the Press Tribunal to be unusual in its use of a jury. Some senior officials described the jury feature as "a privilege", that is to say, that the guilt or innocence would be determined by

persons other than a judge. The Special Representative does not have an understanding of the dynamics of the process and, in particular, it is far from clear whether what might be called legal standards as to guilt or innocence are applied by the jury. The Special Representative considers that punishing the press in such circumstances requires a balancing of the interests of the complainants on the one hand and the interests of the community in upholding the right to publish criticism on the other. The Special Representative sees no role for either imprisonment or corporal punishment in such circumstances.

VII. INFORMATION ON PRISONERS

86. During his visit to the Islamic Republic of Iran, the Special Representative requested information on the situation of the following prisoners condemned to death, including in particular the accused's right of appeal:

(a) Dhabihu'llah Mahrami, son of Ghulamrida, born in the Iranian year of 1325, a Baha'i, sentenced to death on 2 January 1996 on charges of apostasy by a Revolutionary Court in the city of Yazd. Following the Special Representative's request for information about this case, he was informed by the Human Rights Department of the Ministry of Foreign Affairs, on 19 February 1996, that the Supreme Court had rejected the verdict and referred the case to a competent court in Yazd for reconsideration (see para. 71 above);

(b) Rahman Radjabi Hamvand, aged 28, a member of the Democratic Party of Iranian Kurdistan (PDKI), detained in the prison of Darya in the city of Orumiyeh, sentenced to death in October 1995. Following the Special Representative's request for information about this case, he was informed by the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva, by letter dated 29 February 1996, that the Supreme Court had confirmed the death sentence. Nevertheless, this person could appeal for amnesty, in which case the Amnesty Council will review his request. This person had been convicted on charges of murder, plunder and brigandage, being an active member of an armed terrorist group, participating in assassination of civilians and terrorizing people in Kurdistan province, according to the information provided to the Special Representative on 15 February 1996 by Mr. Rahbar Poor, head of the Revolutionary Courts of Tehran, and by the Permanent Representative;

(c) Ali Madad-Karami, condemned to death by a Revolutionary Court in Kermanshah. Mr. Rahbar Poor, head of the Revolutionary Courts of Tehran, advised the Special Representative orally on 15 February 1996 that this person had taken part in an attack of a village in Iranian Kurdistan. He had received military training in Iraq in operations of sabotage and acts of terrorism;

(d) Seyyed Mohammad Mehdi Abbas Zadeh, Kazem Afkhami Moqhadam-Tabrizi and Djalil Shoughi Khatibi, three persons reportedly arrested in 1992 and condemned to death by a Revolutionary Court in Tehran on charges of spying for a foreign country. Mr. Rahbar Poor informed the Special Representative orally, on 15 February 1996, that the death sentences against these three

persons had not yet been confirmed by the Supreme Court, which was studying their appeals. He noted that they were agents of the Central Intelligence Agency (CIA) of the United States. If the death sentences were confirmed by the Supreme Court, they would be able to request commutation of their sentences, pardon or clemency;

(e) Sohrab Husseini, reportedly charged by a Revolutionary Court in Kermanshah with spying for a foreign country and sentenced to death. Mr. Rahbar Poor informed the Special Representative orally, on 15 February 1996, that this person was charged by a Revolutionary Court in Kermanshah with spying for a foreign country and taking part in armed operations in the Islamic Republic of Iran;

(f) Clerics. The Special Representative requested the Human Rights Department of the Ministry of Foreign Affairs to provide information on the following clerics who had been arrested over recent months: Hodjatoleslam Sheik Mohammad Taghi, aged 45, arrested on 8 February 1996; Seyyed Abdulrasoul Mousavi, aged 45, arrested on 11 November 1995 in Tehran; Mohammad Ali Ma'ash, arrested on 11 November 1995 in Qom; Hodjatoleslam Talib Salehi, aged 40, arrested on 11 November 1995 in Qom; Ahmad Akhound; Taghi Akhound, aged 33, son of Bagher, arrested on 11 November 1995 in Tehran; Hadi Akhound, aged 29, arrested on 11 November 1995 in Tehran; Ayatollah Seyyed Morteza Shirazi, son of Seyyed Mohammad, aged 32, arrested on 21 November 1995 in Qom; Hodjatoleslam Sheik Mohamed Fazel Saffar, aged 33, arrested on 11 November 1995; Hodjatoleslam Sheikh Abdul Rahman Delavarian (Haeri), aged 32, arrested on 11 November 1995 in Qom; Hodjatoleslam Seyyed Abbas Mousavi, aged 30, arrested on 11 November 1995; Hodjatoleslam Sheik Foad Fujian, aged 33, arrested on 11 November 1995 in Tehran; Hodjatoleslam Sheik Saleh Hedayati, aged 29, arrested on 17 October 1995; Hodjatoleslam Sheik Djafar Ghani (Haeri), aged 32, arrested in October 1995; Hodjatoleslam Sheik Maki, aged 32, arrested in March 1995; Hadj Mohammad Ghafari, aged 42, arrested on 11 November 1995; and Hodjatoleslam Hadi Zakeri, aged 29, single, arrested on 11 November 1995.

87. On 28 February 1996, the Human Rights Department of the Ministry of Foreign Affairs provided a response, which is set out in annex VII. The Special Representative believes the progress of these cases should be monitored.

88. Milton Meier. The Special Representative also requested information on the situation of a foreigner, Mr. Milton Meier, a person who has reportedly already completed his prison term and yet had again been detained.

VIII. VISIT TO EVIN PRISON IN TEHRAN

89. The Special Representative visited Tehran's Evin prison on 13 February 1996. He was received by Mr. A. Lajevardi, the Director of the Prisons Organization of the Islamic Republic of Iran. Mr. Lajevardi handed the Special Representative a long document in English entitled "The by-laws and regulation of the security and educational procedures of the prisons organization of the Islamic Republic of Iran". He stated that the main objectives of the prison system was to reform and educate the inmates, giving

the prisoners the possibility to study different subjects and to work in several workshops; rehabilitation; improving the personality of inmates; and improving literary skills.

90. According to the Director of the Prisons Organization, after the first 24 hours, detainees must be turned over to his Organization. Inmates have the right to receive visits from their relatives and lawyers. If the prisoner has a satisfactory record, he or she may apply for private visits of his or her spouse. All the prisoners have the right to leave the prison for periods from a minimum of three days in six months to three days in one month. Every morning there is a two-hour sports period in which the prisoners can participate on a voluntary basis. Prison work is also voluntary and remunerated.

91. The Special Representative inquired about the use of the United Nations Standard Minimum Rules for the Treatment of Offenders. The Director did not seem to be aware of the document but later it was explained that the Prosecutor's Office had organized several courses and seminars on the application of the Standard Minimum Rules. It was added that "regrettably", it was the staff of the Prosecutor's Office and not the staff of the Prisons Organization who participated in periodic meetings organized by the United Nations.

92. Mr. Lajevardi stated that the prison population was largely literate as a result of the education programmes. Medical services were available; the inmates were regularly vaccinated.

93. The main problem the Prisons Organization faced was the age of the buildings of some prisons. Mr. Lajevardi stated that that would be solved during the implementation of the second reconstruction plan of the country. Lastly, he made reference to an experimental project in Mashhad, according to which prisoners were not separated on the basis of whether there was a conviction or according to the nature of the offences committed, but on the basis of their personality traits.

94. As of January 1995, the Prisons Organization was responsible for 98,000 inmates across the country.

95. In response to several questions by the Special Representative, Mr. Lajevardi further stated that, in large prisons, the prisoners in pretrial detention were separated from those already convicted, although they could participate together in study, work and sports activities. From 11 to 12 per cent of the prison's population were recidivists. Indeterminate sentencing was not used in the Islamic Republic of Iran. Re-education programmes and religious instruction had a very positive effect, particularly on habitual sexual offenders.

96. After his meeting with Mr. Lajevardi, the Special Representative visited various workshops, including one for carpet designing and another for weaving. At the carpet-designing workshop, three women were working, one of them accompanied by her two-year old baby. At the weaving area, around 30 women were working in conditions of cleanliness but of some overcrowding and

insufficient ventilation. In response to a question, the Special Representative was told that most women prisoners were there for drug offences.

97. The Special Representative requested the prison authorities to arrange for private meetings with the following prisoners:

(a) Kayvan Khalajabadi and Bihnam Mithaqi, two members of the Baha'i community who were arrested in Karaj on 29 April 1989 and sentenced to death on 8 December 1993 by the Islamic Revolutionary Court of Tehran (see para. 70 above);

(b) Ahmed Bakhtiari, born in 1955 in Sari, an agricultural engineer and a member of the People's Fedaian Organization of Iran (Minority). He was reportedly arrested on 16 February 1992 on charges of active membership in a terrorist group, participation in terrorist operations, armed bank robbery, illegal possession of arms and munitions and involvement in the aborted murder of a clergyman in Sari. He had been sentenced to death by the Fifth Branch of the Revolutionary Court of Tehran on 30 March 1994. The Supreme Court had confirmed the sentence. However, following a request from the accused, the case had been referred to the Amnesty Council;

(c) Bahram Jafari-Dinani, born in 1952, arrested in 1988 and sentenced to 15 years' imprisonment on political charges;

(d) Reza Jafari, a Protestant Christian pastor born on 3 June 1939 in Tehran, arrested on 28 September 1995 in Tehran on charges of espionage;

(e) Hedayatollah Zendehdel, son of Rahim, a Jewish businessman who converted to Islam, arrested on charges of economic sabotage, espionage and trying to overthrow the Government;

(f) Abbas Amir-Entezam, son of Ya'Qoub, former Deputy Prime Minister of the Provisional Government of Iran in 1979, sentenced in 1980 to life imprisonment on charges of espionage.

98. The Special Representative was able to hold private meetings, without the presence of prison officers, with Kayvan Khalajabadi, Bihnam Mithaqi and Ahmed Bakhtari. He was also able to meet with Abbas Amir-Entezam who had been released to a security house (see para. 101 below). The Special Representative also met with Mohammad Reza Jafari, a prisoner who was obviously not Reza Jafari, the Christian Protestant pastor. The prison authorities said they could not identify Reza Jafari and Bahram Jafari-Dinani, and asked the Special Representative to provide further details for identification, such as their father's names, place and date of birth, identity card numbers, former addresses, etc. The Iranian authorities were unable to arrange for a meeting with Mr. Zendehdel although the Special Representative could observe Mr. Zendehdel at a distance in a court room (see paras. 29 (c) and 33 above).

99. All the prisoners interviewed appeared to be in satisfactory health, both physical and psychological. However, one was suffering from serious dental

problems. All of them appeared in gray-green uniforms in good condition. They said that the use of the uniform was mandatory only to go before the courts.

100. The prisoners stated that the situation in Evin and the treatment of prisoners had improved somewhat over the past two years. Food was in general terms good, although insufficient in protein and calories. The prisoners could buy additional food. Medical care was, in general terms, also adequate. The prison had a central library and the relatives could provide the prisoners with books, although they must be approved by prison authorities and were restricted in the range of subjects. They also stated that they could have family visits once a week, which took place through a glass partition with telephone sets.

101. Outside Evin prison, the Special Representative was able to hold a private meeting with Abbas Amir-Entezam, who the Iranian authorities said was now released. In fact, he was on a three-day leave from a security house. In that facility he has a room of 3 metres by 3 metres and his own radio set. He has the right to buy his own food.

102. Mr. Amir-Entezam complained that, during his trial, his request for a jury and for a defence lawyer were rejected by the court. After his trial, he spent 550 days in solitary confinement in Evin prison. Later, he spent 160 days in an individual cell measuring 1.2 by 1.2 metres. During the following two and a half years, he saw his wife three times a year. He had the right to take a shower lasting one minute and eleven seconds every day. At that time, food in Evin prison was very bad. He suffered three threats of immediate execution, the application of drugs and vomitives and had to have surgery, at his expense, eleven times in hospital. During the first four years in Evin prison, he was not allowed to have pens, reading material or notebooks.

103. According to Mr. Amir-Entezam, 1,100 political prisoners had been executed in Evin prison during one night at the beginning of the fall of 1981, most of them members of left-wing groups. Since 1989, the situation in Evin prison had improved progressively. In 1994, he had been given the right to receive visits from his cousin every two weeks. However, he had to live together with murderers and thieves, who frequently mocked and harassed him.

104. Mr. Amir-Entezam is now requesting a new trial, with a jury, the assistance of a defence lawyer and the participation, as observers, of representatives of international organizations. The press had quoted Judge Rahbar Poor as saying that, if retried, Mr. Amir-Entezam would face the death penalty. Mr. Amir-Entezam said the press had refused to print his letter in response.

105. Some of the prisoners complained of reprisals for having met with the former Special Representative during his last visit to Tehran in December 1991. In particular, Mr. Amir-Entezam complained of having suffered physical abuse to the point of having lost the hearing in his left ear.

106. By two letters dated 7 February 1996, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva provided the Special Representative with information on some prisoners whose names had been published in previous reports by the former Special Representative (see A/49/514, para. 79). The letters from the Permanent Representative are reproduced as annexes VIII and IX to the present report.

IX. OTHER IMPORTANT SUBJECTS OF CONCERN

A. Disappearances and deaths under suspicious circumstances

107. The Special Representative continues to receive reports concerning disappearances and deaths under suspicious circumstances. Two recent cases are mentioned below.

108. One very recent case brought to the attention of the Special Representative is that of a Sunni cleric, Molawi Ahamed Sayyad, aged 50, who disappeared at Bandar Abbas airport on 28 January 1996 and whose body was found in a suburb of that city on 2 February 1996. It is alleged that he was arrested by six Revolutionary Guards (Pasdaran) at the airport and that he was executed while in Pasdaran custody. In 1990, he had been arrested and imprisoned for five years in Bandar Abbas. Ahamed Sayyad is reportedly the fourth Sunni cleric to have disappeared under suspicious circumstances in the region since 1994. The Special Representative has requested information on this case from the Iranian authorities.

109. The disappearance of Mr. Ahmad Mir Allaee, a well-known writer and translator, was also reported. His body was later found in an alley in the city of Isfahan on 14 November 1995.

B. Violence outside the Islamic Republic of Iran

110. The Special Representative received information concerning allegedly politically motivated violence against Iranians outside the country. He was presented with statistics suggesting that such violence was continuing unabated. The Special Representative considers it appropriate to include reference to such allegations in his report even though the incidents in question occurred outside the Islamic Republic of Iran because, quite arguably, they are an extension of a conflict within the country that has directly affected the human rights of many Iranians. The Special Representative has been informed of what is described as the disappearance and apparent kidnapping of Ali Tavassoli, aged 45, in Baku on 27 September 1995. Mr. Tavassoli is described as a businessman who was formerly active in the Organization of Iranian People's Fedaian (Majority).

111. A second incident that was brought to the attention of the Special Representative were the deaths of Zahrah Rajabi (Mariam Javdan Jowkar) and Abdul Ali Moradi in Istanbul on 20 February 1996. Ms. Rajabi is described as a senior official of the National Council of Resistance of Iran and Mr. Moradi as a long-time sympathizer of the Iranian opposition. Ms. Rajabi is said to have entered Turkey on 27 January 1996 for humanitarian activities among Iranian refugees in that country. It is alleged that the two were assassinated by agents of the Government of the Islamic Republic. In response

to a request for information from the Iranian authorities, the Special Representative was advised, by letter dated 11 March 1996, that the allegations with regard to responsibility for the deaths were denied. The response from the Human Rights Department of the Ministry of Foreign Affairs is set out in Annex VI.

112. The Special Representative also received information subsequent to his visit to the Islamic Republic of Iran that members of the Kurdistan Democratic Party of Iran (Revolutionary Leadership) had been killed by members of the Iranian Pasdaran in Iraqi territory:

(a) Ghafour Mehdizadeh, Ali Amini and Saddiq Abdulahi, reportedly killed on 27 December 1995 in Koya (Sendschag);

(b) Usman Ruyan and Abubaker Rahimi, reportedly killed on 30 December 1995 in Arbil;

(c) Rahman Schabannajad and Ali Abdulah, reportedly killed on 2 January 1996 in Suleimanya; and

(d) Cheder Mahmudi reportedly killed in November 1995 also in Suleimanya.

113. The Special Representative deplores this continuing violence and urges all those in positions of influence to work for its cessation.

C. Democracy

114. Elections for the Fifth Majlis were held on 8 March 1996; from press comments, it is evident that a lively election campaign was under way for some months before that date. While political parties do not exist as such in the Islamic Republic of Iran, there are a number of groups or factions sometimes called "tendencies", all of which appear to be fairly fluid in their membership. Few seem to have a clear statement of objectives in the sense of a political platform. Candidates have to be approved in a multistage process presided over by the Council of Guardians. On 18 February 1996, it was announced that, after the first stage, 2,872 candidates had been declared eligible from among 5,359 applicants. Later it was reported in the press that 2,946 candidates had finally been approved, of whom 179 were women and 18 were from recognized religious minorities. There was criticism in the media over 40 per cent of the applicants being turned down as candidates. More generally, there were letters in the press quite critical of the election process and of the role of the Council of Guardians. One of the major issues appeared to be the basis for approval of the candidates and in particular whether it was necessary, indeed appropriate, for them to have to commit themselves to "Velayat-e Faqih" (absolute rule of the "jurisconsult", i.e. "one learned in the principles and ordinances of the law"). The Secretary of the Council of Guardians was quoted in the press on 25 January 1996 as saying that "practical commitment to Velayat-e Faqih is a requirement for qualification for participation in the elections". The same source was quoted as saying on 23 February 1996 that one of the registered candidates had recently returned home after living abroad for 10 years and

that such people were "necessarily not admissible". According to the press, other candidates were barred for earlier belonging to outlawed opposition groups, for being "semi-illiterate" or being drug addicts.

115. Fifteen persons associated with the Freedom Movement, an unregistered but tolerated opposition group, had applied to be candidates. Four were approved but, according to press reports, they withdrew when they were denied a means to make their views known publicly.

X. HUMAN RIGHTS INSTITUTIONS IN THE ISLAMIC REPUBLIC OF IRAN

116. Several human rights organizations have recently been established in the country:

(a) The Islamic Human Rights Commission became active on 21 March 1995. A recent information statement prepared by the Ministry of Foreign Affairs is attached as annex X.

(b) The Human Rights Department of the Ministry of Foreign Affairs is now active as one of the Departments of the General Directorate for International Social Affairs of the Ministry of Foreign Affairs. A statement about its activities prepared by the Ministry is attached as annex XI.

(c) In 1994 the Majlis created a Human Rights Committee composed of 13 deputies. The Special Representative interviewed its principal founder, Mr. Rajaie Khorasani, who stated that the Committee's main objectives are to study the human rights situation both inside and outside the Islamic Republic of Iran, to review all Iranian draft legislation in order to identify incompatibilities with the Islamic Republic of Iran's international human rights obligations and to contribute to the creation of a human rights culture in the country. The Committee, as a functional commission of the Majlis, carries out activities such as receiving complaints on human rights violations; receiving declarations and statements from responsible officials; interposing its good offices when it appears necessary; expressing its interest in the situation of prisoners or persons in a vulnerable condition; and maintaining contacts and correspondence with similar parliamentary commissions around the world as well as international and non-governmental organizations.

117. Mr. Khorasani stated that the work of the Committee had been difficult during the first months of its existence, owing to misunderstanding in some sectors of Iranian society and the Iranian press about the role of the Committee as well as the basic principles of human rights. Those sectors considered human rights simply as a political tool in the hands of the great Powers; they ignored the objective of human rights law, which was to promote and defend the dignity of the human being. During a general debate in the Majlis, a parliamentarian had addressed the following words to the members of the Human Rights Committee: "You are speaking on behalf of the enemies of this country". He believed it necessary to insist on the creation of a human rights culture and on the idea that human rights were not contrary to Islam.

118. The Special Representative believes these new organizations have considerable potential for improving the human rights situation and he looks forward to monitoring their progress.

XI. SITUATION OF REFUGEES

119. According to a recent UNHCR publication, the Islamic Republic of Iran is the country with the largest refugee population in the world. As of 1 January 1995, it was hosting 1,623,300 Afghan refugees and 613,000 Iraqi refugees, i.e. a total of 2,236,400 refugees. During 1994, 226,700 Afghan refugees and 2,300 Iraqi refugees decided to return to their country (UNHCR, The State of the World's Refugees 1995 - In Search of Solutions, Oxford University Press, New York, 1995, pp. 249, 251-252).

120. The Special Representative was informed, during his meetings with officials from UNHCR in Geneva and Tehran, that the majority of Afghan refugees are scattered in a number of eastern and central provinces, including the Greater Tehran Region. Only a minority lives in camps, which are mainly located on the border with Pakistan and are provided with safe drinking water, electricity and additional food.

121. During 1995, the repatriation process has slowed down, owing to the intensification of the civil war in Afghanistan. Some 91,000 Afghan refugees were repatriated during 1995 with the assistance of the UNHCR.

122. Iraqi refugees in the Islamic Republic of Iran are mostly Kurds from the north of Iraq and Arab Shi'ites from the southern marsh area. About 63,000 live in refugee camps and the remainder are scattered in towns and villages mainly located in the western and central provinces of the country. In the fall of 1995, the repatriation operation had to be suspended owing to incidents in Iraq. It was subsequently resumed, but at a much reduced level.

123. In general terms, both the Afghan and the Iraqi refugees have access to medical services, medicines and schools. However, the Special Representative was told that the Government of the Islamic Republic has begun to have some financial problems subsidizing such services, particularly in the health sector. This has led UNHCR to develop a targeted medical network to respond to the most acute needs of the refugees.

124. UNHCR has an active presence in the Islamic Republic of Iran with a main office in Tehran and regional offices in Ahvaz, Kermanshah, Mashhad and Zahedan. It carries out several programmes of assistance, documentation and protection.

XII. CONCLUSIONS

125. The Special Representative feels it would be presumptuous of him to draw definitive conclusions after such a short period on the job. At this stage, conclusions are inevitably in the form of observations, questions and the identification of areas to be examined in more detail.

126. The Islamic Republic of Iran is a dynamic society. There is clearly a range of opinions on most issues facing the society, and in many areas there is evidently active and fairly open debate. Arguably, this could be a prelude for significant change. In the meantime however, there remain, in the view of the Special Representative, many areas of significant concern from a human rights perspective. A number of these are identified in the present report.

127. More generally, however, the term "human rights" does not yet seem to be widely accepted in the country as a system of values and procedures to preserve the dignity of the individual. A sense of the universality of that dignity, of its importance beyond politics, seems at best rudimentary.

128. The Special Representative believes it is his mandate to chronicle not only acts that he considers to be breaches of human rights, but also trends - both positive and negative - and importantly, to engage the Government of the Islamic Republic in a dialogue, perhaps implicit, on the subject of change. The Special Representative believes it to be of the utmost importance to encourage the Government to lead the way towards a more sympathetic environment for the propagation of a culture of human rights in the Islamic Republic of Iran.

129. The Special Representative acknowledges the cooperation of the Government of the Islamic Republic of Iran in the first six months of his mandate. He looks forward to the continuation of this spirit.

Annex I

INTERNATIONAL HUMAN RIGHTS INSTRUMENTS TO WHICH THE ISLAMIC REPUBLIC OF IRAN IS A PARTY

The Islamic Republic of Iran is a party to the following international human rights instruments. Their dates of entry into force for the Islamic Republic of Iran are shown:

- International Covenant on Civil and Political Rights, 23 March 1976;
- International Covenant on Economic, Social and Cultural Rights, 3 January 1976;
- International Convention on the Elimination of All Forms of Racial Discrimination, 4 January 1969;
- International Convention on the Suppression and Punishment of the Crime of Apartheid, 17 May 1985;
- International Convention against Apartheid in Sports, 3 April 1988;
- Convention on the Prevention and Punishment of the Crime of Genocide, 12 November 1956;
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 30 December 1959;
- Convention relating to the Status of Refugees, 26 October 1976;
- Protocol relating to the Status of Refugees, 28 July 1976;
- Convention on the Rights of the Child, 12 August 1994.

The Islamic Republic of Iran has signed but not yet ratified the following international human rights instruments:

- Slavery Convention of 1926;
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 16 July 1953.

Annex II

SPECIAL REPRESENTATIVE'S VISIT TO THE ISLAMIC REPUBLIC OF IRAN

Official programme

Saturday, 10 February 1996	Arrival at Mehrabad Airport.
	Meeting with H.E. Mr. Rowhani, Deputy Speaker of the Islamic Consultative Assembly (Majlis) and Chief Secretary of the Supreme National Security Council.
	Meeting with Mr. Maasoumeh Ebtekar, Chief Editor of Farzaneh Quarterly.
	Meeting with H.E. Mr. M. Javad Zarif, Deputy Foreign Minister for Legal and International Affairs.
	Meeting with Mr. Badamchian, Leading Member of Article 10 Commission on Political Parties.
Sunday, 11 February 1996	Academic round table on Islamic and international approaches to human rights. Participants: Ayatollah Taskhiri; Mr. Dinani (Professor, University of Tehran); Mr. Hossein Mehrpoor; Mr. Mohaghegh Damad (Professor, University of Tehran); and Ayatollah Jafari (Professor, Islamic Philosophy).
Monday, 12 February 1996	Meeting with Hojatoleslam val Moslemin Rahbar Poor, Head of the Islamic Revolutionary Courts of Tehran Province and his deputy for drug matters.
	Meeting with H.E. Mr. Ashari, Deputy Minister of Islamic Culture and Guidance.
	Meeting with Mr. Eftekhar Jahromi, President of the Independent Bar Association.
	Meeting with H.E. Mr. Fallahian, Minister of Intelligence.
Tuesday, 13 February 1996	Meeting with Mr. A. Lajevardi, Head of the Prisons Organization.
	Visit to Evin Prison.
	Meeting with H.E. Mr. A. Velayati, Minister for Foreign Affairs.

	Meeting with Hojatoleslam val Moslemin Ferdosi Poor, Head of the Court of Administrative Justice.
	Meeting with Mrs. Habibi, Adviser to H.E. President Rafsanjani.
Wednesday, 14 February 1996	Meeting with Hojatoleslam val Moslemin Razini, Head of the Courts of Justice of Tehran Province.
	Meeting with H.E. Hojatoleslam val Moslemin Esmail Shushtari, Minister of Justice.
	Meeting with Mr. S. Rajaie Khorasani, Member of Parliament and a leading member of the Islamic Human Rights Commission.
	Meeting with Mrs. F. Hashemi, Head of the Women's Solidarity Council.
Thursday, 15 February 1996	Second meeting with Hoyatoleslam val Moslemin Rahbar Poor.
	Meeting with Ayatollah Yazdi, Head of the Judiciary.
	Final meeting at the Ministry of Foreign Affairs with Mr. M. Javad Zarif and members of the Human Rights Department.
Friday, 16 February 1996	Departure for Geneva.

Annex III

SPECIAL REPRESENTATIVE'S VISIT TO THE ISLAMIC REPUBLIC OF IRAN

Unofficial meetings

Saturday, 10 February 1996	Mr. Darioush Farouhar, former Labour Minister in the Provisional Government of the Islamic Republic of Iran.
Sunday, 11 February 1996	Confidential meetings. 1/
Monday, 12 February 1996	Mr. Ebrahim Yazdi, former Minister for Foreign Affairs in the Provisional Government of the Islamic Republic of Iran.
	Meeting with leading members of the Baha'i Community.
	Meeting with Mr. Pierre Bertrand, UNHCR Chief of Mission.
	Confidential meetings. 1/
Tuesday, 13 February 1996	Confidential meetings. 1/
Wednesday, 14 February 1996	Meeting with Mr. Abbas Maroufi, Editor-in-Chief of Gardoon magazine.
	Confidential meetings. 1/
Thursday, 15 February 1996	Meeting with Mr. Abdolkarim Soroush.
	Meeting with Mr. Abbas Amir-Entezam.
	Interviews with the Iranian and international press.

1/ Confidential meetings: the persons interviewed requested the Special Representative that their names be kept in strict confidence.

Annex IV

SOME SUBJECTS THE SPECIAL REPRESENTATIVE WISHES TO PURSUE ON FURTHER VISITS TO THE ISLAMIC REPUBLIC OF IRAN

1. Further inquiry into the pretrial phase of legal proceedings, particularly the treatment of prisoners, the length of time a prisoner can be held before being charged, the right to a lawyer and, generally the rights of detainees at this pretrial stage.

2. Further inquiry concerning the application of recent or recently revised or promulgated statutes such as the Law establishing the general and revolutionary courts and the Penal Code.

3. Number, status and competence of special courts such as the High Tribunal for Judicial Discipline, the Clerics Court and the Military Court. The rights of the accused, access of the media to the courts, publication of the judgements and settlement of conflicts of jurisdiction would also be examined.

4. Examination of such concepts as the "prestige of the clergy", "insulting the leaders" and "economic sabotage or terrorism".

5. Use of the death penalty.

6. Functioning of the Independent Bar Association.

7. Legal status and treatment of children, especially in the courts.

Annex V

INFORMATION ON EXECUTIONS PUBLISHED IN THE IRANIAN AND INTERNATIONAL PRESS DURING 1995

1. A person accused of murder was executed in February 1995 in the public section of Tehran's Ghasr prison and another five persons, accused of smuggling drugs, were hanged in Hamadan. In March 1995, Javad Taheri, Esmaeel Mohammadi and Javad Bahran-Pour, found guilty of armed robbery, causing chaos and threatening the security of the people, were hanged in public at Mohammad-Yar, in Naqadeh City.

2. In April 1995, according to the ruling of a revolutionary court, an armed robber was publicly hanged in Kovar. Also in April, Parvis Poyamanesh and Mehrdad Najafi, found guilty of murder, were hanged in Tehran's Ghasr prison and Ismail Mozdoori, also accused of murder, was executed in Neka at the scene of the crime, in the presence of judiciary and security officers. In May 1995, 3 persons were hanged in public in a stadium of Ghaemchahr on charges of murder; a person was executed in the city of Susangerd for murdering 2 people; 11 persons accused of drug-trafficking were hanged in Kerman's penitentiary and Khodanazar Keshavars and Dadkhoda Tajick, 2 persons accused of murder, were executed in the courtyard of Adel-Abad prison in the city of Shiraz.

3. On 13 June 1995, Ali-Reza Gol-Afrouz, aged 43, sentenced to death on charges of murder, adultery and drinking alcohol, was hanged in public in Chirvan, after receiving 80 lashes. On 16 June, Ahmad Asghari, aged 26, and Mirza Ali Mirzaï, aged 28, were publicly hanged in Varzeh, after being found guilty of abduction and rape. Another four people, accused of drug-trafficking and acts contrary to chastity, were hanged on 27 June in the courtyard of a prison in the city of Qom.

4. On 21 July 1995, Lieutenant Colonel Kazem Farzaneh, former Director of the Department against drug-trafficking in the Province of Khorrassan, was hanged in Mashhad. He was found guilty by the Revolutionary Court of that city of drug-trafficking and possession of 123 kilograms of opium, heroin and morphine, as well as receiving bribes. In late September 1995, six members of the Democratic Party of Iranian Kurdistan were executed by firing squad in the city of Orumiyeh. Rashid Abubakri, a Kurdish villager member of the party, was hanged on 21 September in a prison in Orumiyeh.

5. Hamzeh Azizi, Vahid-Reza Masrour and Abdol-Reza Masrour were hanged in public on 16 October 1995 at three different locations in the city of Shiraz. They were found guilty by a revolutionary court of corruption on Earth and drug-trafficking. On 13 November, Mehdi Barazandeh, an Iranian mystic member of the Dervish sect, was stoned to death in the city of Hamadan, after being found guilty of adultery and sodomy. On 22 November, Fazel Khodadad, a businessman convicted of bank embezzlement, was hanged in Evin prison in Tehran.

Annex VI

LETTER DATED 11 MARCH 1996 FROM THE DIRECTOR OF THE HUMAN RIGHTS DEPARTMENT OF THE IRANIAN MINISTRY OF FOREIGN AFFAIRS ADDRESSED TO THE SPECIAL REPRESENTATIVE

I hereby draw your attention to the result of investigation done following your queries:

1. Referring to the accusations concerning Ms. Zeinab Miri, Ms. Sedigheh Habibi and Mrs. Nassrin Qa'Emi, I would like to inform you that the question was forwarded to the bodies concerned for proper investigation. According to the information received from the above mentioned sources, including the Ministry of Interior and the Tehran Justice Department, the arrest of those persons is not confirmed.

2. The baseless and fabricated accusations in regard to the death of two Iranians whose names have been given, Ms. Zahrah Rajabi and Mr. A. Moradi; and the alleged relation thereof with the Islamic Republic of Iran, are obviously spiteful and invalid. It is evident that the security of foreigners in the territory of a given country is the responsibility of the State in which they reside.

3. Moreover, it should be mentioned that the so-called MKO (a violent small terrorist group) has in the past repeatedly levelled similar accusations against Iran in the hope of ascribing their policy of murdering their disenchanted members to others.

(Signed): Hossein Sh. ZEINEDDIN

Annex VII

LETTER DATED 28 FEBRUARY 1996 FROM THE DIRECTOR OF THE HUMAN RIGHTS DEPARTMENT OF THE IRANIAN MINISTRY OF FOREIGN AFFAIRS ADDRESSED TO THE SPECIAL REPRESENTATIVE

I would like to provide you with the following information about the clandestine group of Seyyed Morteza Shirazi:

(a) Seyyed Morteza Shirazi, son of Seyyed Mohammad, 32 years old, born in Karbala, is the founder of an illegal organization which engages in unlawful objectives and acts, such as disturbing public order, forging documents, disseminating lies and rumours, insulting the country's officials and dispatching unauthorized reports abroad. He was arrested on 21 November 1995 in Qom and was transferred to Tehran for legal investigations. In addition, 10 other members of his illegal organization, whose main charges are pointed out below, were also arrested. Their cases are under due process of law.

Charges against Seyyed Morteza Shirazi:

(i) Establishing an illegal organization with the purpose of disturbing public order along with the following unlawful acts:

a. Collaborating in issuing and using forged passports;

b. Collaborating in issuing and using forged identity cards;

c. Collaborating in the issuing and use of forged educational documents;

d. Collaborating in the illegal transfer of individuals to foreign countries;

e. Printing books without relevant authorization;

(ii) Disturbing public order and actively promoting Ghameh Zani (traditional knife-beating on the head on the day commemorating the martyrdom of Imam Hossein), which led to serious injuries among ignorant persons, and provoking people's religious sentiments for the same purpose;

(iii) Forging legal and real entities;

(iv) Disseminating lies and rumours, and endangering the right of freedom of expression in some of the theological centres;

(v) Defaming and insulting the leadership and other officials of the country;

(vi) Making contacts with wanted criminals resident in foreign countries;

(vii) Unauthorized collection and dispatch of information and reports to foreign countries;

(b) Rahman Delavarian, was arrested on 11 November 1995 in Qom under the alias of Haeri and transferred to Tehran for legal investigations. His charges are as follows:

(i) Providing a safe house for holding illegal meetings and activities;

(ii) Forging passports and identity cards for himself and others;

(iii) Using a forged passport to leave the country illegally;

(iv) Membership in the illegal organization of Seyyed Morteza Shirazi;

(v) Insulting the Leader of the Islamic Republic of Iran and inciting people against him;

(vi) Disseminating lies and rumours against the sovereignty of the country in meetings with foreign residents;

(vii) Providing and forging academic documents;

(viii) Provoking people's religious sentiments, disturbing public order by committing unlawful acts such as Ghameh Zani and defaming and insulting the Leader and other officials of the country;

(c) Hadi Akhound, son of Bagher, born in Karbala was arrested on 11 November 1995 in Tehran. His charges are as follows:

(i) Membership in the illegal organization of Seyyed Morteza Shirazi;

(ii) Providing logistic facilities for the illegal organization;

(iii) Dispatching false publications and illegal consignments for the members of the organization;

(iv) Sending publications to the members of the organization that contained slander and insult to the leadership and other officials of the country;

(v) Collaborating in the illegal transport of people prohibited from travelling abroad;

(vi) Publishing and distributing books without appropriate authorization;

(vii) Misusing his position to conspire and forge military service exemption cards:

(d) Ja'far Ghani, 35 years old, born in Karbala was arrested on 30 September 1995 in Qom under the alias of Movafagh Najjar. Following legal procedure, he was sentenced to 15 months' imprisonment. His main charges are as follows:

(i) Repeated illegal travelling to foreign countries such as Iraq;

(ii) Forging Afghan identity cards and Afghan passports;

(iii) Membership in the illegal organization of Seyyed Morteza Shirazi;

(iv) Disseminating lies and rumours;

(e) Foad Fujian, 33, son of Nasser, born in Karbala, was arrested on 11 November 1995 in Tehran. His charges are as follows:

(i) Coordinator and head of the office of the illegal organization of Seyyed Morteza Shirazi;

(ii) Distributing illegal publications containing insults and slander to the Leader of the Islamic Republic of Iran, and forging legal and real identities;

(iii) Collaborating in disseminating lies and rumours and disturbing public order;

(iv) Violating his commitments to judicial authorities;

(f) Seyyed Abdulrasoul Mousavi, born in Kazemein, was arrested on 11 November 1995 in Tehran under the alias of Abu-Adib. His charges are as follows:

(i) Membership in the illegal organization of Seyyed Morteza Shirazi;

(ii) Collecting and maintaining illegal publications containing insults to the leadership of the Islamic Republic of Iran;

(iii) Collaborating with the accused Mohammad Dehnavi-Pour and keeping his illegal publications in order to help him to circumvent the law.

(g) Mohammad Ali Ma'ash was arrested on 11 November 1995 in Qom and was transferred to Tehran for legal investigation. His charges are as follows:

(i) Membership in the illegal organization of Seyyed Morteza Shirazi;

(ii) Fabricating and disseminating lies and rumours and provoking people abroad against the Islamic Republic of Iran;

(iii) Counselling and participating in illegal transfer of criminals abroad;

(iv) Abortive attempt to leave the country illegally;

(v) Dispatching classified information and reports abroad with the aim of confronting the Islamic Republic of Iran;

(h) Fazel Mohammad Saleh was arrested on 11 November 1995 in Qom under the alias of Mohammad Ali Shahabi and was transferred to Tehran for legal investigation. His charges are as follows:

(i) Membership in the illegal organization of Seyyed Morteza Shirazi;

(ii) Disseminating lies and rumours and directing the agents affiliated with the organization of Seyyed Morteza Shirazi in foreign countries with the aim of confronting the Islamic Republic of Iran;

(i) Talib Salehi was arrested on 11 November 1995 in Qom and was transferred to Tehran for legal investigations. His charges are as follows:

(i) Membership in the illegal organization of Seyyed Morteza Shirazi;

(ii) Disseminating lies and rumours against the sovereignty of the Islamic Republic of Iran and its officials;

(iii) Using a forged Iraqi green card, passport and identity card with a different identity;

(iv) Sending false information to foreign countries with the aim of creating a psychological war and damaging the reputation of the State;

(j) Taghi Akhound, 33 years old, son of Bagher, born in Karbala, was arrested on 11 November 1995 in Tehran. His charges are as follows:

(i) Membership in the illegal organization of Seyyed Morteza Shirazi;

(ii) Making efforts, and encouraging individuals, to participate in illegal activities to disturb public order and security;

(iii) Disseminating lies and rumours, disturbing public order and taking unlawful measures such as distributing illegal publications and books and encouraging Ghameh Zani;

(iv) Insulting and slandering the Leader and other officials of the country;

(k) Mohammad Dehnavi-Pour, 45 years old, born in Karbala, was arrested on 11 November 1995 in Tehran under the alias of Abu-Kamal. His charges are as follows:

(i) Being in charge of the financial affairs of the illegal organization of Seyyed Morteza Shirazi;

(ii) Collaborating in disseminating lies and rumours and providing logistic facilities for the members of the organization;

(iii) Disturbing public order and taking measures contrary to the country's prestige such as Ghameh Zani;

(iv) Insulting and slandering the Leader and other officials of the country;

(v) Collecting and maintaining illegal publications that contain insults to the late Leader, Imam Khomeini, and the Islamic revolution.

Contrary to the allegations of ill-treatment of the detainees, they were not in any way mistreated and even their houses were searched by female officers, in the presence of the accused persons and some of their family members. The list of articles collected was signed by the head of the family and the accused. The procedure for searching some of the houses was videotaped. At the first opportunity in the 24 hours following their arrest, the accused made contact with their families and informed them of their situation. These communications have been continued, especially on religious feasts, when the accused have spoken with their spouses and children as well as their relatives. They have also had several face-to-face meetings. They are provided with medicine, medical care, food and health services. Lastly, according to article 35 of the Constitution, they are entitled to choose a lawyer and their right is fully respected.

(Signed): Hossein Sh. ZEINEDDIN

Annex VIII

LETTER DATED 7 FEBRUARY 1996 FROM THE PERMANENT REPRESENTATIVE OF THE ISLAMIC REPUBLIC OF IRAN TO THE UNITED NATIONS OFFICE AT GENEVA ADDRESSED TO THE SPECIAL REPRESENTATIVE

I wish to bring to your attention the following findings, which have been received from Tehran:

(a) Mansouri Taheri was arrested on charges of collaboration in terrorist activities involving a terrorist group. Following legal proceedings, the accused was sentenced to three years' imprisonment. After serving his prison term, he was released on 13 December 1985. He later legally left the country in July 1995;

(b) Reza Pazhohesh was arrested on charges of collaboration in terrorist activities involving a terrorist group. Following legal proceedings, he was sentenced to three years' imprisonment on 8 February 1992 in Zanjan province. After serving part of his sentence, he was released on 22 August 1992;

(c) Taha Kermani. No official information about the incident involving Mr. Taha Kermani has been received. Similar incidents have been communicated, however, in the past, where the terrorist organizations have eliminated their opposition and blamed the Islamic Republic of Iran at the same time. We expect that the relevant Government will make the necessary investigations and bring the perpetrators to justice;

(d) Mohammad Hassan Basiji was arrested on charges of acting against public safety. According to the court verdict issued on 9 January 1983 he was sentenced to two and a half years' imprisonment. He was released after serving his term.

(Signed): Sirous NASSERI
Permanent Representative

Annex IX

LETTER DATED 7 FEBRUARY 1996 FROM THE PERMANENT REPRESENTATIVE OF THE ISLAMIC REPUBLIC OF IRAN TO THE UNITED NATIONS OFFICE AT GENEVA ADDRESSED TO THE SPECIAL REPRESENTATIVE

I have the pleasure to provide you with the result of investigations carried out by the relevant judicial authorities on the following cases:

(a) Samir Yasin Moslemian was arrested and sentenced by the Ahwaz Judiciary Authorities on 20 November 1990 because of his active membership in a terrorist group with the aim of subversion and territorial secession. He later qualified for amnesty and his sentence was decreased to 13 years and 4 months. At present, he is serving his term in the Ahwaz central jail;

(b) Zaher Manouchehri was arrested on 10 August 1991 on charges of actively supporting a terrorist group. After due process of law, he was sentenced to three years imprisonment by Sanandaj judicial authorities. He qualified for amnesty and was therefore released on 13 April 1993. Meanwhile, there is no record on Zaher Manouchehri;

(c) Maryam-Banou Sepehri-Rahnama was apprehended on charges of acting against national security. Following due process of law, the court found her guilty and she was sentenced to 15 years' imprisonment. She was later pardoned and released on 29 March 1993;

(d) Homayoun Najafi was arrested on charges of collaboration with a terrorist group. Following due process of law, he was found guilty and was sentenced to one year's imprisonment. He was released on 30 July 1990 after serving his sentence;

(e) Jamshid Amiri Biqvand was arrested on charges of extortion and acting against national security. Following due process of law, he was sentenced to seven years' imprisonment and reimbursement of the extorted money;

(f) Seyyed Nasrolah Mir-Saidi was arrested on charges of acting against national security. Following due process of law, he was sentenced to 15 years' imprisonment and is serving his term;

(g) Ashraf Taman was arrested on 10 May 1983 on charges of membership in an armed group and involvement in terrorist activities as well as violating public order. Following due process of law, the person was sentenced to and served an eight-year imprisonment and was released on 24 January 1991;

(h) Abbas Amir Entezam was arrested on 19 December 1979 on charges of espionage and having relations with the CIA. According to legal procedures, he was publicly tried in the First Branch of the Islamic Revolutionary Court in the presence of an attorney and witnesses. The late Bazargan, the then Prime Minister of the Provisional Government of Iran, was actively present during his trial, which was videotaped by Iranian television. Finally, he was found guilty and sentenced to life imprisonment. He has not requested amnesty so far. Yet, out of humanitarian considerations, he was transferred from jail to an appropriate house on 8 January 1995;

(i) Morteza Afshari Rad was arrested on charges of causing an explosion in an electrical transformer and gas pipeline in Abhar (Zanjan province) and giving confidential information to the enemy. Following due process of law, he was sentenced to 10 years' imprisonment. (Our previous response to the former Special Representative's report (E/CN.4/1995/55) was about someone else with the same name but a different ID number.);

(j) Malekeh Amouie was arrested on charges of violating public order and acting against national security. Following due process of law, she qualified for amnesty and was released on 6 April 1993;

(k) Shahin Sameie was arrested on charges of involvement in terrorist activities and violation of public order in 1994. Following due process of law, she was sentenced to 12 years' imprisonment. In 1988, she was granted amnesty and was released from prison;

(l) Salim Sabernia and Mostafa Ghaderi were arrested in an armed conflict near the north-west border heights, following which they confessed that they had murdered several villagers and extorted money from them to finance Komele, a terrorist group based in Iraq. Following due process of law, they were sentenced to death by the Tabriz court in 1993. The verdict, however, has not been carried out, and their requests for amnesty are being considered;

(m) Hossein Kamali was arrested on charges of murdering his Romanian wife, Danielle George. Following due process of law, he was found guilty and sentenced to death. Following his objection to the verdict, the Supreme Court referred the case to the relevant court to complete the data. The implementation of the verdict depends on the legal procedures, including seeking the views of the close relatives of the victim, to be received from the Romanian Embassy in Tehran;

(n) Mohammad Rezaie, Iran Ghassemi, S. Houri Pour Anvari and Mahnaz Moradi (Ghassemi's daughter) were sentenced to capital punishment by the Twelfth Branch Criminal Court in Hamedan Province. The verdicts, which were confirmed by the Twenty-first Branch of the Supreme Court, were carried out on 3 December 1994 except for Ms. Mahnaz Moradi, who was pregnant and is still in custody;

(o) Nasser Arabha (Arbabi). Because of insulting the society, Islamic codes and values, and violating Press and Cultural Heritage Acts approved by the Islamic Consultative Assembly, the licence of Farad magazine was suspended by the Publication Licence-Issuing Committee, which is composed of representatives of the judiciary, publishers, the Islamic Consultative Assembly and the Government. In the presence of the jury, Mr. Arabha (the editor of Farad) was sentenced to six months' imprisonment. He was later pardoned and released before serving his full term.

(Signed): Sirous NASSERI
Permanent Representative

Annex X

ISLAMIC HUMAN RIGHTS COMMISSION

The Islamic Human Rights Commission (IHRC) is a national institution with four substantive organs, which are as follows:

(a) Presidency;

(b) Supreme Council on Policy-making;

(c) Five committees on scientific affairs, monitoring, programming, women's affairs and follow-up; and

(d) Secretariat.

Some of the Articles of Association read:

Article 1. According to principle 156 and the first line of principle 158 of the Constitution, IHRC would be formed under the supervision of the Chief of the Judiciary.

Article 2. The Commission would operate exclusively in the field of Islamic human rights.

Article 3. From the date of establishment, the Council would have legal responsibility and its chief would be the legal representative of the Commission.

Article 4. The headquarters of the Commission would be located in Tehran and its branches can be established in any part of the country or the world.

Objectives of IHRC

The objectives of IHRC are as follows:

(a) Elucidating, teaching and propagating human rights from the Islamic viewpoint;

(b) Monitoring the observance of Islamic human rights by legal and real entities;

(c) Formulating and proposing suitable solutions for taking positions or action vis-à-vis any violations of human rights particularly in relation to Muslims the world over;

(d) Considering and following up the violations of Islamic human rights reported to the Commission;

(e) Cooperating with national and international organizations dealing with human rights especially for consideration and follow-up of matters related to the Islamic Republic of Iran;

(f) Appraising the condition of the Islamic Republic of Iran in accordance with international covenants and conventions on human rights.

President of IHRC

The President of the Commission is the head of the judiciary and his responsibilities are as follows: chairing the sessions of the Council and monitoring the implementation of its approvals and exercising properly the functions of the Council and Committees.

Supreme Council on Policy-making

The Supreme Council on Policy-making consists of nine individuals as follows: head of the judiciary; two experienced judges familiar with the Islamic human rights; two lawyers selected from among well known professors of Islamic and international law; the Minister for Foreign Affairs or his representative; the head of the Bar Association or his representative; and two representatives of the Islamic Consultative Assembly (one man and one woman) familiar with principles of Islamic human rights.

The duties of the Supreme Council are as follows:

(a) Defining guidelines and general policies to realize the objectives of the Commission;

(b) Defining and approving priorities of the Committees' functions;

(c) Proposing reforms or changes in organization and its duties;

(d) Electing and sending representatives to internal and external forums;

(e) Making decisions about the Commission's membership in internal and external forums.

The Commission stipulates in the first amendment of its Articles of Association that membership in the Supreme Council is honorary. The Council's sessions would be formal with the presence of a majority, and its decisions would be adopted with the votes of two-thirds of the members present. In its first session, the Council will elect a president, a vice president and a secretary. The third person can be elected from non-members of the Council.

Committees

A. Scientific Committee

This Committee will be formed with the membership of five distinguished clergymen as well as informed university professors who have good knowledge of Islamic legal issues as well as the principles and standards of international law. Its responsibilities are as follows:

(a) Defining principles and standards of human rights in Islam and preparing relevant scientific texts;

(b) Elaborating commonalities and differences between human rights in Islam and international human rights standards;

(c) Organizing training courses on Islamic human rights standards;

(d) Furnishing responses to scientific questions on Islamic human rights.

B. Monitoring Committee

This Committee has two internal and external divisions. Each division consists of four persons familiar with human rights who are responsible for studying and monitoring the situation of Islamic human rights in the Islamic Republic of Iran and in other countries.

C. Planning Committee

This Committee consists of three experts in legal, political and social issues and has the following duties:

(a) Formulating suitable programmes for taking action and positions vis-à-vis issues put forward;

(b) Drawing up a practical programme for the approval of the Supreme Council on Policy-making.

D. Committee on Women's Affairs

This Committee consists of three persons, preferably women, who have a good knowledge of Islamic law and women's social rights. Its duty is to study and reflect on women's issues and difficulties with the cooperation of the Scientific, Monitoring and Follow-up Committees.

E. Follow-up Committee

This Committee consists of 5 judges with 10 years' experience and its responsibilities are as follows:

(a) Considering, substantiating and following up complaints and reporting the result to the Commission's President;

(b) Following up matters referred to it by the Commission and announcing the result to the Commission's President.

Secretariat

As the first active and executive arm of IHRC, the secretariat is responsible for the committees' duties and answerable to complaints received before the formation of the committees and is the main liaison among the committees.

The duties of the secretariat, under the supervision of the Council's secretary, are as follows:

(a) Registering and classifying all letters and reports addressed to it;

(b) Preparing requested reports;

(c) Preparing annual reports on the Commission's functions;

(d) Communicating the approvals of the Supreme Council;

(e) Preparing the agenda for the sessions of the Supreme Council;

(f) Following up matters referred to it by the President of the Commission.

Measures taken

The Follow-up Committee, which is the main organ for considering letters and complaints addressed to the Commission, has received more than 400 letters since the establishment of IHRC. The measures taken on these letters are as follows:

(a) Directing 40 applicants elsewhere since their cases were not related to the function of the Commission;

(b) Classifying and transmitting the allegations about 507 cases of enforced or involuntary disappearances to Provincial Departments of Justice. Ten provinces have communicated with the Commission so far;

(c) Considering a number of letters and corresponded with relevant departments. Decisions would be made after receiving answers;

(d) Referring to the Supreme Council for consideration of 300 cases about Bahai's;

(e) Corresponding with foreign countries about violations of the human rights of Iranians abroad.

Number of communications of the secretariat:

Total number of letters registered: 1,437

Total number of letters issued: 710

Annex XI

HUMAN RIGHTS DEPARTMENT OF THE MINISTRY OF FOREIGN AFFAIRS

The Ministry of Foreign Affairs has recently established a Human Rights Department. The Director of this Department is assisted by two deputies and a number of clerks. It reports to the Minister for Foreign Affairs. The functions of the department are:

(a) To coordinate the activities of organs within the Islamic Republic of Iran with the activities of international human rights organs;

(b) To study allegations of violations of human rights. The allegations are checked with different organs of the Government such as the judiciary, law and order authorities, the prisons organization, the Ministry of Interior, etc. The answers are then sent to special rapporteurs and special representatives (country and thematic mandates) of the Commission on Human Rights;

(c) To follow the questions pertaining to human rights in the Islamic Republic of Iran in the Commission on Human Rights and the Third Committee of the General Assembly;

(d) To prepare periodic reports on behalf of the Islamic Republic of Iran concerning the International Covenants and presenting them in the appropriate committees;

(e) To prepare specific programmes on human rights and training national organizations for the promotion of human rights.

In order to obtain the necessary information speedily, the office elaborated a special programme for the registration of allegations and uses computer facilities in order to study the claims sent to it.

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